

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 10:</b> Adoption	<b>Effective Date:</b> November 1, 2012
	<b>Section 19:</b> Continuations, Terminations and Suspensions of Adoption Assistance Periodic Payments	<b>Version:</b> 3

## POLICY **[REVISED]**

### **Continuation of Adoption Assistance Agreements after Child Becomes 18 years of age**

Adoption assistance will not automatically be continued when the child turns 18 years of age. Ninety calendar days prior to the child's 18<sup>th</sup> birthday, DCS Central Eligibility Unit (CEU) will send a [termination letter](#) and an [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\)](#) to the adoptive parent(s). The letter will inform the adoptive parent(s) of the adoption assistance, including any periodic payments, that will cease to be effective the day before the child's 18<sup>th</sup> birthday. It will also provide instructions for applying for a continuation of the periodic payment past the child's 18<sup>th</sup> birthday.

A completed [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\)](#) must be received by DCS CEU at least 30 calendar days prior to the child's 18<sup>th</sup> birthday. The application includes the statutory eligibility requirements for the continuation of the adoption assistance, as well as instructions for what documentation the adoptive parent(s) must provide DCS to support the basis for the continued periodic payment.

DCS CEU will process any continuation requests during the month of the child's 18<sup>th</sup> birthday. If the application for continuation is received after the month of the child's 18<sup>th</sup> birthday, he or she is no longer eligible for a continuation of periodic payment. The [Notice of Termination of Adoption Agreement](#) letter and the [Request for Administrative Review \(SF54348\)](#) will be subsequently sent to the adoptive parent(s).

The following documents are examples of documentation that should be submitted to DCS CEU with an [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\)](#):

1. Diagnosis of any Physical, Mental, Medical, or Emotional Condition(s) that limits the child's self-supporting capability;
2. Individual Education Plan (IEP) or verification of other educational assessment/needs; and
3. Proof of enrollment in school (secondary or post secondary).

A [Notice of Continuation of Adoption Agreement Beyond Age Eighteen \(18\)](#) will be sent to the adoptive parent(s) if the child is eligible for a continuation of adoption assistance. Adoption Assistance Program (AAP) approved continuations will include the continuation of periodic monthly payments; however, State Adoption Subsidy (SAS) and County Adoption Subsidy (CAS) approved continuations will be funded based on the priorities outlined in [10.16 Funding for Adoption Assistance](#).

For children eligible for CAS or SAS continuation, Medicaid will be contingent upon a determination of eligibility based on the presence of mental, physical, or emotional disability. The child or adoptive parent(s) shall promptly notify DCS of any change in the child's

circumstances as it relates to the need for continuation of periodic payments, including but not limited to:

1. Any change in the nature or scope of legal, financial or other support that the adoptive parent(s) provides toward the child's living expenses, medical needs, or necessary care and supervision; or
2. Termination of enrollment in any school or educational program before graduation or completion of the program.

### **Termination or Administrative Suspension of Adoption Assistance**

The adoptive parent(s) is required to promptly notify DCS CEU, in writing, of the occurrence of any event that is or could be grounds for termination or suspension of the adoption assistance agreement. If the adoptive parent(s) fails to notify DCS CEU within 30 calendar days of the occurrence of the event, DCS may require the adoptive parent(s) to refund to DCS any payments received for any month after the date of the occurrence.

Unless otherwise determined by DCS CEU, all periodic payments provided under an adoption assistance agreement shall cease when one of the following occurs:

1. The child turns 18 years of age;
2. The child is emancipated;
3. The adoptive parent(s) is no longer legally responsible for supporting the child;
4. The adoptive parent(s) is no longer providing financial support for the child;
5. The child is married;
6. The adoptive parent(s) or the child dies;
7. The child's adoption is terminated;
8. The child is on active duty in the United States armed services or National Guard for more than 30 consecutive calendar days in a calendar year; or
9. The adoptive parent(s) requests termination of the periodic payment.

**Note:** Adoption Agreement continued beyond age 18 that meet the criteria for extending AAP to Older Youth (under Fostering Connections) will terminate when the child turns 20 years of age, unless otherwise determined by CEU. All other adoption agreements continued beyond age 18 will terminate at age 21 unless otherwise determined by CEU that the requirements of the continuation are not being met.

### **[NEW] Continuation of AAP Adoption Assistance for Older Youth (AAP-Older Youth)**

AAP adoption assistance can be extended to youth to age 20 under the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) if:

The adoption was finalized on or after the child's 16<sup>th</sup> birthday (but before the child's 18<sup>th</sup> birthday); and

At least one (1) of the following educational or employment conditions continue to be met:

1. Enrolled in secondary education or a program leading to an equivalent credential;
2. Enrolled in an institution which provides post-secondary or vocational education;
3. Participation in a program or activity designed to promote, or remove barriers to employment;
4. Employed for at least 80 hours per month; or
5. Is incapable of doing any of the previously described educational or employment activities due to a medical condition.

Once notice has been provided to the adoptive parent, DCS will administratively suspend payments provided under an adoption assistance agreement if a determination is made that the adoptive parent(s) is no longer providing financial support to the child. If the adoptive parent(s) resumes regular financial support of the child, DCS will end the suspension and continue payments as provided in the agreement.

All parents that have entered into adoption assistance agreements shall submit a fully completed [Adoption Program Status Report](#) periodically to verify that the child remains eligible for assistance. The [Adoption Program Status Report](#) shall be submitted to DCS CEU by the due date listed on the report. Failure to submit an [Adoption Program Status Report](#) timely may be grounds for suspension or termination of payments under a SAS/CAS agreement. SAS/CAS payments will not resume until the requested Adoption Program Status Report has been submitted, reviewed and approved by DCS.

### **Suspension or Reduction of State Adoption Periodic Payments for Funding Shortfalls**

DCS may determine, at any time, that sufficient funds are not available during a fiscal year to pay in full all obligations incurred under SAS agreements for the remainder of the fiscal year.

DCS may, after 30 calendar days written notice to the adoptive parent(s), implement an across-the-board percentage reduction on all SAS if the following conditions are satisfied:

1. No new SAS agreements are placed in payment status while the percentage reductions are in effect; and
2. The SAS agreement includes a provision authorizing DCS to make across-the-board percentage reductions in payments due to insufficiency of available funds.

### Code References

1. 42 USC 673(a)(4)
2. [IC 31-19-26.5-9](#)

## **PROCEDURE**

### **Continuation of Adoption Agreements after Child Becomes 18 years of age**

The DCS Central Eligibility Unit (CEU) will:

1. Send a [termination letter](#) and copy of the appropriate [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\)](#) based on the type of adoption assistance the child is receiving 90 calendar days prior to the child's 18<sup>th</sup> birthday;
2. Review the [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\)](#) and the documentation received and determine if the child continues to be eligible for a periodic payment;
3. Complete the [Notice of Continuation or Termination of Adoption Agreement Beyond Age Eighteen \(18\)](#) form or [Notice of Termination of Adoption Agreement](#) letter as appropriate;
4. Send the determination to the parent(s) along with the [Request for Administrative Review \(SF54348\)](#) form;
5. Change the end date in KidTraks to the day before the child's 21<sup>st</sup> birthday; if the child is only eligible for SAS, place the child on the Adoption Waiting List; and
6. Email the DCS Medicaid Unit to advise if Medicaid should remain open or should be closed.

## Termination or Administrative Suspension of Adoption Assistance

The DCS CEU will:

1. Review the [Adoption Program Status Report](#) or other updated information on the circumstances of the child to determine whether the child continues to be eligible for adoption assistance;
2. Stop the payments in KidTraks if the child is no longer eligible for adoption assistance;
3. Email the DCS Medicaid Unit to inform them that the child is no longer eligible for Medicaid (MA8);
4. Complete and send the [Notice of Continuation or Termination of Adoption Agreement](#) or [Notice of Administrative Suspension of Adoption Assistance Periodic Payment](#) (whichever is applicable), and the [Request for Administrative Review \(SF54348\)](#) form (if applicable) to the adoptive parent(s); and
5. Maintain the [Adoption Program Status Report](#) or information provided by the adoptive parent(s) or child to support the basis for terminating or suspending the adoption assistance.

### PRACTICE GUIDANCE

N/A

### FORMS AND TOOLS

1. [Adoption Program Status Report](#) -Available via CEU
2. [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\) for Recipients of Adoption Assistance Program \(AAP\)](#) -Available via CEU
3. [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\) for Recipients of Adoption Assistance Program \(AAP\) and County Adoption Subsidy \(CAS\) Combined Subsidies](#) -Available via CEU
4. [Application for Continuation of Adoption Agreement Beyond Age Eighteen \(18\) for Recipients of State Adoption Subsidy \(SAS\) or County Adoption Subsidy \(CAS\)](#) – Available via CEU
5. [Notice of Continuation of Adoption Agreement Beyond Age 18](#) -Available via CEU
6. [Notice of Termination of Adoption Agreement](#) -Available via CEU
7. [Notice of Administrative Suspension of Adoption Assistance Periodic Payments](#) – Available via CEU
8. [Request for Administrative Review \(SF54348\)](#)

### RELATED INFORMATION

**[REVISED]**

#### **[NEW]** Continuation for AAP

The child's eligibility for AAP to be continued is based on a physical, mental, or emotional condition that limits ability for self-support.

#### **[NEW]** Continuation for CAS or SAS

The child must be enrolled in high school or post-secondary education to be eligible for CAS or SAS to continue.

### **[REVISED] Application for Continuation**

The documents necessary to determine eligibility for continuation beyond age 18 are based on the type of adoption assistance the child is receiving and are listed on the [Application for Continuation of Adoption Agreement](#) sent to the parent 90 days prior to the child's 18<sup>th</sup> birthday.

The documents requested may include the following:

1. Physical, mental, medical, or emotional condition: If the application is based on the child's need for continuing support and assistance because of a physical, mental, medical, or emotional condition, the application should include documentation regarding the child's current needs and condition. It should be supported by certification from a licensed physician, psychiatrist, or psychologist, stating the specific condition and diagnosis that limits the child's self-supporting capability, and describes the support and/or treatment required to meet the child's current needs. DCS may request an independent examination and report regarding the child, from a qualified professional selected by DCS, to assist in its determination of whether to approve the application for continuation;

**Note:** AAP does not cover those still in high school unless they have a diagnosis of a disability that qualifies them for continuation of payments. If they are still in high school or in post-secondary school and received a SAS/CAS periodic payment prior to their 18<sup>th</sup> birthday, they may be eligible for SAS/CAS continuation and would be put on the waiting list.

2. IEP or verification of other educational assessments/needs: If the application is based on the child's need for continuing support and assistance due to physical, mental, medical, or emotional condition, the application should include documentation of an IEP or other educational assessments/needs to demonstrate the impact the child's condition has on daily functioning; and
3. Educational Needs Basis (SAS Agreements Only, if funding is available): If the application is based on the child's educational needs as specified in [IC 31-19-26.5-9\(b\)\(1\)\(A\)](#), the application must include documentation required by DCS to describe and substantiate the child's educational status.

**Note:** The child must be enrolled in high school or post-secondary to be eligible for SAS to continue if the child's need for continuing financial assistance is not based on a physical, mental, or emotional condition that limits ability for self-support.

4. **[NEW]** Employment or employment training verification: If the application is based on the extension to age 20 for older youth, the application must include documentation from the employer of the number of hours per month the child worked in the month of application; and
5. Continuing Support: A statement or other verification that the adoptive parent(s) will continue to provide the principal source of the child's support after the child becomes age 18, and claim the child as a dependent for income tax purposes, should be submitted with an application for continuation of SAS or CAS periodic payments beyond age 18.

### **Definition of Financial Support for the Purposes of Adoption Assistance**

If parent(s) is no longer providing a form of financial support to or for the child, adoption assistance benefits may be terminated. DCS may determine that if the parent is maintaining regular visitation with the child and is cooperating with the child's case plan to return home while

the child is in out-of-home care , and if one (1) of the following are met, the parent(s) should be considered as providing financial support to the child:

1. The parent(s) is making regular payments, or otherwise providing support for the child, for:
  - a. Family therapy,
  - b. Tuition,
  - c. Clothing,
  - d. Maintenance of special equipment in the home, or
  - e. Services for the child's special needs, such as occupational, physical, or speech therapy;
2. The parent(s) is providing support for the child while the child is in out-of-home care, in the form of regular monetary payments of not less than \$100.00 per month or provision of materials, supplies or services having an equivalent monetary value; or
3. The parent(s) is paying child support pursuant to a court order.